

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JERMAINE DOCKERY, *et al.*,

Plaintiffs,

v.

Civil Action No. 3:13-cv-326-WHB-JCG

PELICIA HALL, *et. al.*,

Defendants.

**PLAINTIFFS' MOTION TO VACATE SUMMARY JUDGMENT, OR, IN THE
ALTERNATIVE, DEFER OPPOSITION BRIEFING TO ANY MOTION FOR
SUMMARY JUDGMENT UNTIL AFTER THE TRIAL IN THIS MATTER**

Plaintiffs bring this Motion to Vacate Summary Judgment, or in the Alternative, Defer Opposition Briefing to any Motion for Summary Judgment, pursuant to Federal Rule of Civil Procedure 16:

1. Under the Court's Case Management Order, summary judgment motions must be filed on or before July 28, 2017. *See* ECF No. 501.
2. Trial in this matter is calendared to begin on January 2, 2018. *Id.* The case will be tried to the Court rather than to a jury.
3. As to each of Plaintiffs' claims for relief, there are genuine disputes of material fact that will prevent the Court from granting summary judgment, and will require a trial on the merits.
4. Permitting the parties to file summary judgment motions will only serve to increase litigation costs for the parties and the Court.
5. Vacating the summary judgment proceeding in lieu of proceeding directly to trial will not prejudice Defendants.

6. For these and the additional reasons set forth in the accompanying memorandum, Plaintiffs now bring this motion requesting that the Court amend the Case Management Order in this matter, and vacate the summary judgment proceeding in favor of proceeding directly to trial on the merits. In the alternative, Plaintiffs request that the Court exercise its discretion to defer opposition briefing on any motion for summary judgment until after trial.

7. Plaintiffs submit the following exhibits in support of this motion:

- a. Exhibit 1 is a true and correct copy of the expert report prepared by Plaintiffs' expert Dr. Terry Kupers on December 29, 2016. The report has been redacted to omit any personally-identifiable information.
- b. Exhibit 2 is a true and correct copy of the expert report prepared by Plaintiffs' expert Dr. Bruce Gage on December 29, 2016. The report has been redacted to omit any personally-identifiable information.
- c. Exhibit 3 is a true and correct copy of the Mississippi Department of Corrections' Monthly Reports for the period of time between July 2015 and June 2016, and bearing Bates-stamp DEF-215921.
- d. Exhibit 4 is a true and correct copy of the Mississippi Department of Corrections' Monthly Reports for the period of time between July 2016 and January 2017, and bearing Bates-stamp DEF-215935.
- e. Exhibit 5 is a true and correct copy of the November 2016 first shift rosters at EMCF.
- f. Exhibit 6 is a true and correct copy of the EMCF Monitor's monthly monitoring worksheets for each month between January 2016 and December 2016, not including November 2016, for which no worksheet is available. The compilation bears the beginning Bates-stamp DEF-213182.

- g. Exhibit 7 is a true and correct copy of an email exchange initiated by Vernell Thomas on July 1, 2015, bearing Bates-stamp DEF_ESI_0006171. Prisoner names and MDOC numbers have been redacted for purposes of this exhibit.
- h. Exhibit 8 is a true and correct copy of the expert report prepared by Plaintiffs' expert Madeline LaMarre on December 29, 2016. Exhibit 1 of the LaMarre (2016) expert report is Ms. LaMarre's 2011 expert report, and Exhibit 2 of the LaMarre (2016) expert report is Ms. LaMarre's 2014 expert report in this case. The reports have been redacted to omit any personally-identifiable information.
- i. Exhibit 9 is a true and correct copy of excerpts of the May 22, 2017 deposition of Dr. Rolando Abangan.
- j. Exhibit 10 is a true and correct copy of an email exchange involving MDOC's Chief Medical Officer, Dr. Gloria Perry, on August 31, 2015, bearing Bates-stamp DEF_ESI_0015605.

Dated: July 3, 2017

Respectfully submitted,

s/Ravi Doshi

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CERTIFICATE OF SERVICE

I, Ravi Doshi, hereby certify that a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent by electronic mail to all parties by the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

SO CERTIFIED, this 3rd day of July, 2017.

Respectfully submitted,

/s/ Ravi Doshi
Ravi Doshi